IN THE

Supreme Court of the United States

OCTOBER TERM, 1947.

No. 260

LURA D. GLASSEY and HENRY L. BROENING,

Petitioners,

vs.

THE PEOPLE OF THE STATE OF CALIFORNIA.

Petition for Writ of Certiorari to the Appellate Department of the Superior Court of the State of California, in and for the County of Los Angeles.

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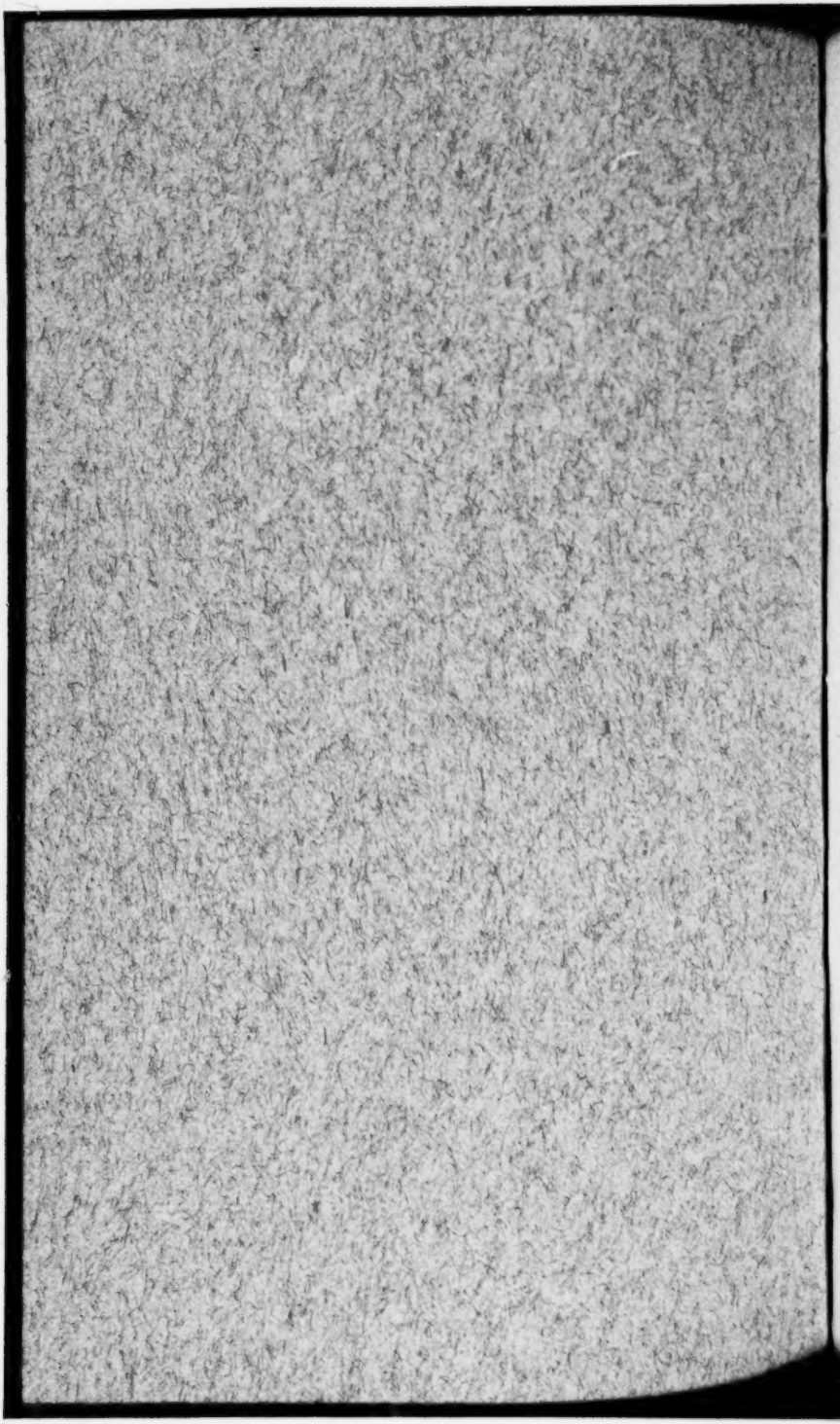

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Petition for Writ of Certiorari to the Appellate Department of the Superior Court of the State of California, in and for the County of Los Angeles.

This petition for a writ of certiorari seeks a review of a decision of the Appellate Department of the Superior Court of the State of California, in and for the County of Los Angeles. That court considered the effect of Subdivision (H) of Section 47.50 (the "anti-nudism" ordinance) of the Los Angeles Municipal Code on the rights of the petitioners in the light of the basic liberties guaranteed by the Fourteenth Amendment to the United States Constitution [Tr. 119-120; R.....].[1] On the basis

[1]The Record as of the date of the printing of this petition is being printed by the clerk of this court and is not yet available. References to the Record, therefore, are to the typewritten transcript certified to this court by the clerk of the Appellate Department of the Superior Court, in and for the County of Los Angeles, and are denoted "Tr." followed by the page number.

of this consideration the Appellate Department found that the ordinance in question did not unduly restrict those personal liberties and that it was therefore not violative of federal constitutional right. The court accordingly affirmed the judgment of the trial court. The judgment of the trial court [Tr. 68; R. .....] and the Memo Opinion of the Appellate Department [Tr. 103; R. .....] are not reported.

Jurisdiction.

The final judgment of the Appellate Department of the Superior Court of the State of California, in and for the County of Los Angeles, was entered May 5, 1947 [Tr. 104; R. .....]; and petition for rehearing was denied on May 12, 1947 [Tr. 115; R. .....]. Said court is the highest court in the State of California to which petitioners under the law of that state might appeal their case.[2] The issue as to which petitioners seek this court's review involving the constitutionality of Subdivision (H) of Section 47.50 of the Los Angeles Municipal Code under the Fourteenth Amendment to the United States Constitution, was decided adversely to petitioners, over their argument, by the state court [Tr. 103; R. .....]. The jurisdiction of this court is invoked under Section 237 of the Judicial Code, as amended (28 U. S. C. 344 (b)).

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[2]California Constitution, Art. VI, Secs. 4, 4b and 5;

California Penal Code, Secs. 1466-1470;

Cf. Young v. California, 308 U. S. 147, 154, and *Herbold v. A. T. & S. F.*, 117 Cal. App. 430.

Questions Presented.

1. Does Subdivision (H) of Section 47.50 of the Los Angeles Municipal Code which prevents the operation of any place where Nudism may be practiced, on its face and as applied to petitioners herein, unconstitutionally restrict petitioners' personal liberty without due process of law within the meaning of Section 1 of the Fourteenth Amendment to the United States Constitution?

2. Does the practice of Nudism pursuant to a sincere belief in the principles of Nudism where there is no showing of obscene or immoral conduct constitute an exercise of freedom of speech, within the guarantees of the Fourteenth Amendment?

Statutes Involved.

Subdivision (H) of Section 47.50 of the Los Angeles Municipal Code[3] provides:

> It shall be unlawful for any person to operate, manage, or conduct any camp, colony, or other place of resort, wherein three or more persons not all of the same sex are permitted or allowed to commingle in the nude; or wherein persons are permitted or allowed to view persons of the opposite sex in the nude.

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[3]The Los Angeles Municipal Code is Ordinance 77,000 of the City of Los Angeles. The entire text of Section 47.50 is hereinafter set forth as Appendix "A."

Statement of the Case.

FACTS—On August 31, 1946, petitioners were arrested when police officers of the City of Los Angeles went to the premises involved and posed as believers in Nudism [Tr. 76; R. .....]. The officers were admitted only after they employed subterfuge and professed agreement with the principles of Nudism by signing a Registration Form with the fictitious names of "Mr. and Mrs. Robert and Anna Bond" [Tr. 76; R. .....]. The agreement signed by the police officers is the same one all who desire entrance must agree to and is People's Exhibit "A." It is hereinafter set forth as Appendix "B."

The premises here involved are located at 9804 La Tuna Canyon in Los Angeles County, California [Tr. 76; R. .....], about one mile away from the highway [Tr. 79; R. .....]; they are surrounded on three sides by high hills and there is no habitation on any of the hills [Tr. 80; R. .....]; the entrance to the premises is removed from any visible habitation [Tr. 80; R. .....]. The premises are run by the Fraternity Elysia [Tr. 79; R. .....], an organization the members of which believe in the practice of Nudism [Tr. 79; R. .....]. They believe that great moral and health benefits are to be derived from the practice of Nudism [Tr. 81; R. .....]; that their purpose in being in the nude is not to expose themselves to others but to get the benefits of Nudism [Tr. 81; R. .....].

At the time petitioners were arrested there were men, women and children on the premises—some of whom were in the nude [Tr. 77; R. .....], some of whom wore

"G-straps" [Tr. 78, 79; R. .....], some of whom wore shorts [Tr. 76; R. .....], and some of whom were fully clothed [Tr. 77, 79; R. .....]. The activity that was going on consisted of: A lady taking care of the office [Tr. 77; R. .....]; two men playing on the badminton court [Tr. 77; R. .....]; a girl sitting on the back porch of one of the buildings [Tr. 77; R. .....]; three men and one woman walking toward the swimming pool [Tr. 77; R. .....]; one woman walking toward a cabin [Tr. 79; R. .....]; three men and one woman sunning themselves [Tr. 77, 79; R. .....]; a boy about 9 years old in the swimming pool [Tr. 80; R. .....]; two other children nearby [Tr. 80; R. .....]; and two or three men were in the game room [Tr. 79; R. .....].

Decisions Below—The trial court (Municipal Court of the City of Los Angeles) did not render an opinion. After a verdict of guilty by a jury [Tr. 67; R. .....], the trial court sentenced petitioner Glassey to 180 days in the Los Angeles City Jail [Tr. 69; R. .....] and petitioner Broening to 90 days in the Los Angeles City Jail [Tr. 68; R. .....].

The Appellate Department of the Superior Court affirmed the judgment of the trial court and on the constitutional issues here involved said: "We do not find subdivision (H) to be invalid either for uncertainty or as unduly restricting personal liberty" [Tr. 104; R. .....]. Further execution of sentence was stayed by the Appellate Department on July 23, 1947, pending disposition by this court of this petition.

Reasons for Granting the Writ.

1. This court has not passed upon, and a decision of the highest court of the land is needed to settle, the issue as to whether or not in our society, as today constituted, persons who are sincere in their belief in Nudism and who commit no anti-social or immoral acts may be prohibited by a municipality from practicing Nudism pursuant to their sincere belief.

All will agree that our nation is great because it affords to all persons the maximum freedom of personal liberty consistent with the protection by society from those activities which are harmful to it. Always there is the question in determining how far personal liberties shall be permitted to operate as to where "the other fellow's nose begins." Nudism is an idea in which many persons believe. It is also an idea by reason of the belief in which many persons are being put in jail—not because they are committing unlawful acts but because they are practicing Nudism. This court should, therefore, pass upon the question as to whether Nudism itself, with nothing more, should not be permitted to live or whether it is of such a nature as to permit of its demise. In other words, does not our society, as exemplified by the constitutional guarantees, protect a person in his belief that good health and high morals may be achieved in the practice of going about without clothes at such times and places where others will not be offended? At least is this not a right where no illegal or immoral acts occur? Constitutionally stated, does not the concept of the "clear and present danger rule"

protect this phase of living where, as here, there is no evidence of promiscuity or immorality?

The many persons who believe in Nudism constitute a minority whose rights are entitled to this court's protection just as are the rights of other minorities in other fields of human conduct. They are entitled, therefore, to a consideration by this court of those rights.

2. This court has given broad expression to the doctrine of the "clear and present danger rule" as being a "working principle[4] to determine "where the individual's freedom ends and the State's power begins."[5] But those cases have involved the exercise of expression through the medium of the tongue or pen. This court has never passed upon the question as to whether or not that rule also applies to freedom of expression through the medium of action. That is whether or not there is also, within the framework of the constitutional principle evolved, the right to practice one's social, economic or political belief as well as to give oral or written notice of it.

The case at bar is the case which gives this court the opportunity to pass upon that fundamental issue. The writ, therefore, should issue.

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[4]*Bridges v. California*, 314 U. S. 252, 263.

[5]*Thomas v. Collins*, 323 U. S. 516, 529.

ARGUMENT.

I.

Nudism Is a Social Belief Which, Like Any Other Social, Economic or Religious Belief, Can Be Proscribed Only if the Practice of the Belief Violates the "Clear and Present Danger" Rule.

A. Unless a Practice Involving Social Beliefs or a Course of Conduct Is Anti-social, or Against Public Peace of Good Order, the State Cannot Restrict the Exercise of the Personal Liberty to Practice That Belief.

It is the genius of our constitutional system of government that we start with the proposition that all persons living under the protection of that Constitution are free to act as they will so long as that action does not interfere with the right of society to protect itself from detrimental acts.

In the matter of the advocacy of particular beliefs through the medium of speech or assembly this rule has been expressed by this court as the "clear and present danger rule."[6]

But this right to act so long as one's actions are not anti-social or against the peace or good order of the community is not confined to matters or opinions concerning economic or political or religious beliefs. It extends to all matters of social belief. Particularly is this true with regard to matters concerning the "privacies of life."[7]

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[6] *Thomas v. Collins,* 323 U. S. 516;
Bridges v. California, 314 U. S. 252.

[7] *Weeks v. United States,* 232 U. S. 383, 390;
Entick v. Carrington, 19 How. St. Tr. 1029;
Cf. United States v. Leftowitz, 285 U. S. 452, 466.

In the case at bar it must be clearly borne in mind that the practice of Nudism itself is sought to be prohibited by the statute. There is nothing to indicate that any anti-social or immoral acts took place or that there was any clear or present danger that they would take place. It is purely and simply an attempt on the part of the City of Los Angeles to prevent these petitioners and others of like belief to practice their belief, the sincerity of which was never questioned. There is no attempt on the part of petitioners to force their beliefs upon others, nor to practice their beliefs in public or even where those who are not like minded would view the practice or be offended by it. Thus the record shows that the premises were far away from any habitation or public place [Tr. 79; R. .....]; it was a secluded spot, entrance to which was only permissible to those who were sincere believers in Nudism [Tr. 76; R. .....]. And nowhere in the record is there the slightest hint that any but normal healthful and moral pursuits were being carried on.

The beliefs which the ordinance in question seeks to prohibit are these:[8]

> "We believe in the essential wholesomeness of the human body and all its functions.
>
> "We believe in inculcating in all persons a desire to improve and perfect the body by natural living in the out-of-doors.
>
> "We believe that sunshine on the entire body are basic factors in maintaining radiant health and happiness.

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[8]*Sunshine and Health*, Vol. XVI, No. 7, July 1947, p. 30 (Official Publication of the American Sunbathing Association).

"We believe that the health of the nation will be immeasurably advanced through the wide acceptance of the principles and standards advocated by the American Sunbathing Association.

"We believe that presentation of the male and female figures in their entirety and completeness needs no apology or defense and that only in such an attitude of mind can we find true modesty."

Thus it is clear that there is here involved another minority belief which is entitled to constitutional protection. It is a belief the practice of which, unless in and of itself action which violates the clear and present danger rule, cannot constitutionally be proscribed.

B. The Statute, Proscribing as It Does Social Beliefs and Practices (as Distinguished From Ordinary Commercial Transactions) Is Subject to Searching Inquiry as to Its Constitutionality and Is Not Buttressed With the Ordinary Presumption of Validity.

This rule of constitutional construction was recognized in *United States v. Carolene Products Co.,* 304 U. S. 144, 153, and is now clearly the guide to legislation seeking to curtail the expression, by word or act, of social beliefs. (*Thomas v. Collins,* 323 U. S. 516, 530.)

Especially is this true where the legislation is directed against a particular minority or "victim" of special legislation, here—the Nudists. In the *Carolene Products* case, *supra*, this page, this court said:

"Prejudice against discrete and insular minorities may be a special condition, which tends seriously to curtail the operation of those political processes ordinarily to be relied upon to protect minorities, and . . . may *call for a correspondingly more searching judicial inquiry.*" (Italics added.)

And no showing was made by the state, to overcome the presumption of invalidity, that there was any danger clear, present, or otherwise of the taking place of any anti-social, immoral or other act that the state has the right to prevent.

C. Heterodox Social Practices of All Types Including the Practice of Nudism Are Entitled to Full Freedom of Expression Subject Only to the "Clear and Present Danger Rule."

In *West Virginia Board of Education v. Barnette,* 319 U. S. 624, the practice of the belief that the salute to the Flag violated one's conscience was upheld by this court as entitled to protection. So the requirement that all school children must partake in the ceremony was declared invalid as to Jehovah's Witnesses. Despite strong resentment on the part of the majority of the community (see Brief of the American Legion), this court recognized that the Board of Education had gone too far in curtailing the practice of belief.

There are, unquestionably, certain practices of belief that the state has the right to prevent—for example, polygamy. (*Cleveland v. United States,* 91 L. Ed. (Adv.) 1.) But such practices are admittedly anti-social in and of themselves.

The practice of Nudism, calling for the high morality that it does [People's Exhibit "A"], falls rather with the Flag Salute type of case rather than with the polygamy type of case. It should receive the same constitutional protection.

II.

The Practice of Nudism Itself, Without More, Does Not Constitute a Clear and Present Danger to Society.

A. Nudisim Is Neither Obscene, Immoral, Anti-social Nor Against the Public Peace or Good Order.

It must always be borne in mind that Nudism, as practiced and as shown by the record in this case, does not involve display, exhibitionism or the foisting of the belief upon those who are not in sympathy with it. It involves the practice of the belief away from public places and only in the presence of those who are in agreement, and it involves the commission of no immoral or otherwise illegal acts.

For this court to sustain the ordinance would be for this court to sustain the proposition that to view the human body is something inherently bad or obscene in and of itself. That this opinion is held by some will not be gainsaid by petitioners. (See dissenting opinions in *People v. Burke,* 243 App. Div. 83 and 267 N. Y. 571.) But the mere fact that there is disagreement as to a particular practice does not make the practice itself one which can be prohibited. (*Cf. West Virginia Board of Education v. Barnette,* 319 U. S. 624.)

The proper view is that the human body is something of art and beauty in and of itself the display of which, unless accompanied by acts otherwise immoral or in places where others might be offended, is not contrary to the ends of society. Thus in *Parmelee v. United States,* 113 F. (2) 729, 734 (App. D. C., 1940), the court said:

> "Nudity in art has long been recognized as the reverse of obscene. Art galleries and art catalogues

contain many nudes, ancient and modern. Even such a conservative source as Encyclopedia Britannica contains nudes, full front view, male and female, and nude males and females pictured together and in physical contact."

Nor is the view that nudity itself is not immoral or obscene of strictly recent origin. As early as 1884 the New York court in *People v. Muller,* 96 N. Y. 408, said:

"It is evident that mere nudity in painting or sculpture is not obscenity. Some of the great works in painting or sculpture as all known represent nude human forms. It is a false delicacy and mere prudery which would condemn and banish from sight all such objects as obscene simply on account of their nudity."

Certainly the human body itself should not be in any less favored position than reproductions of it.

The principles and standards of the Nudists themselves clearly show that immorality and obscenity are the very things which they desire to eliminate. Thus the record in the case at bar shows [Tr. 78; R. .....] the following:

"One man (a Nudist on the premises at which petitioners were arrested), who had on a G-strap, said 'do you know anything about Nudism? It has given us great health benefits; it has helped my wife considerably.' I (the arresting officer) then asked him if he did not object to the children being in the nude or seeing adults in the nude. He said that he did not object to it and knew that there were so many other children who were having trouble because of sex curiosity, but that the children who were brought up in the belief of Nudism did not have any of that trouble and that their morals were of the highest caliber."

And the official platform of the Nudists bears out the same conclusion. It is:[9]

"Our goal is the healthy mind in the healthy body. This is not only a creed but a way of life. Sun, light and air are vital conditions of human well-being. We believe these elements are insufficiently used in present-day life, to the detriment of physical and moral health. For the purpose of health and recreation and for the conditioning of man to his world we offer a new social practice, based on the known wholesome value of exposure to these elements and in the spirit of naturalness, cheerfulness, and cleanness of body and mind that they symbolize. We aim to make the fullest possible use of sun, light and air by a program of exercise and life in the open in such a way as will result in the maximum physical and mental benefit.

"We believe in the essential wholesomeness of the human body, and all its functions. We therefore regard the body neither as an object of shame nor as a subject for levity or erotic exploitation. Any attitude or behavior inconsistent with this view is contrary to the whole spirit of the society and has no place among us.

"The practice of our physical culture tends toward simplicity and integrity in all ways. We counsel for our members the sane and hygienic life. We reserve the right to impose abstinence from stimulants and intoxicants at our meetings and on our grounds.

"We invite to our membership persons of character of all ages and both sexes. Our purposes are not exclusively physical or cultural or esthetic but rather a normal union of all these. We make no tests of

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[9]*Sunshine and Health*, Vol. XVI, No. 7, July 1947, p. 24.

politics, religion or opinion provided that these are so held as not to obscure the purposes of the Movement. It is intended that the Movement shall be representative of the whole social order."

A practice of the belief of the ideals above set forth cannot be condemned *ipso facto* as immoral or obscene. The very creed, or "way of life," sets forth the antithesis of immorality or obscenity.

III.

The Ordinance Is Arbitrary, Indefinite, Vague and Uncertain.

A. The Difference Between Criminality and Non-criminality Under the Statute Is a Tiny Piece of Cloth.

The "legal litmus paper"[10] under the ordinance is a few inches of cloth. Thus if at the premises the persons were to wear a so-called "G-strap" [Defendant's Exhibit 1], the petitioners would not have been arrested. For the statute reads that what is prohibited is a place where persons of the opposite sex may be together in the nude. From a Biblical standpoint it may be said, in general, that the fig-leaf has denoted the difference between what is nude and what is not nude. From the standpoint of the protection of society from the immorality or obscenity which the ordinance purportedly is designed to reach, such a distinction is without merit. In fact, quite the contrary is the result to be achieved by the ordinance. It is well known that a far greater erotic or sensual impulse may be derived from a view of the draped form than from the completely nude form. The sensual or erotic desires arise

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[10]Justice Holmes in *Abrams v. United States*, 250 U. S. 616, 629.

to a greater degree when there is the suggestion of nudity rather than when the completely nude form is shown. Persons who capitalize on this human trait (circus side show operators, burlesque dancers, etc.) take full advantage of it. And even those who are responsible for the design of ladies' clothes take pains to emphasize by suggestion and "daringness" the features of the female body which differentiate it from the male. It is this very suggestion of immorality or obscenity which the petitioners and other Nudists seek to eradicate.

If the word "nude" in the ordinance were to be given any other interpretation than complete nakedness, it would then perforce fall of its own weight within the meaning of *Lanzetta v. New Jersey,* 306 U. S. 451, because it would be too vague a meaning, there being nothing in the ordinance to define how much covering must be on the person before it be considered that he is not in the nude.

But there is no need to belabor the definition of the word. It seems clear that what the statute aims at preventing is a place where persons of the opposite sex may be together *completely* naked. If they are not thus completely "in the skin," so to speak, it is not a violation of the law.

It thus follows that the statute is arbitrary on its face and as enforced because the dividing line denoting criminality is an insignificant piece of material.

B. The Word "Nude" Is Not Defined in the Ordinance Thus Rendering the Ordinance Invalid for Vagueness and Uncertainty.

This court has many times pointed out that a criminal statute which in its terms is so vague that ordinary men would differ as to its meaning violates due process of law.[11] Certainly if the word "gangster" without definition renders a statute void for uncertainty and vagueness,[12] so also should the word "nude" undefined.

A search of the law books gives little help.

The word is defined in Webster's New International Dictionary as follows:

> "Nude (nud), a. (L. Nudus. See Naked:)
>
> 1. Law Naked: without consideration or, in Roman and Civil Law, without a cause (see cause, 3); as a nude contract. (*cf.* naked contract. See naked, 7b); a nude pact. See NUDUM PACTUM.
>
> 2. Bare; mere; naked, manifest. Obs.
>
> 3. Bare; naked; devoid of covering, as hair, investment, or the like; barren; as, a nude bud, room, or mountain.
>
> 4. Naked; unclothed; as a nude person or statue.
>
> Syn.—See Naked.
>
> Nude. n. 1. Paint. & Sculp. A nude or undraped figure.
>
> 2. With the. The undraped human figure, or a representation of it in art; also, the state of being nude."

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[11]*Connolly v. General Construction Co.*, 269 U. S. 385, 391-393; *Lanzetta v. New Jersey*, 306 U. S. 451, 458.

[12]*Lanzetta v. New Jersey, supra*, note 11.

Bouvier's Law Dictionary defines the word as follows:

> "Nude. Naked. Figuratively, this word is now applied to various subjects. Nude matter is a bare allegation of a thing done, without any evidence of it."

The most that can be gathered from these definitions is that nude means completely naked—without any clothing. But is that what is meant by the ordinance? It is impossible to tell. For example, shoes are certainly a part of one's ordinary clothing. And so a person reading the statute and interpreting it to mean simply completely without clothing or entirely naked, could feel—and rightly so—that he would not be violating the statute by operating a place where persons went around without clothing except for shoes. Similarly, would it be a violation of the statute for petitioners to operate a place where the women were required to wear brassiers but nothing around their groins? The law abiding citizen can get no answer to this problem from reading the ordinance. Or is the ordinance violated if the women are required to wear so-called "G-straps" but are not required to cover their breasts?

Thus we find here a criminal statute which has all the vice that was condemned in the *Lanzetta* case.

The Appellate Department interpreted the subdivision here in question as entirely separate from the rest of the ordinance. But even if we look to the rest of the ordinance in an effort to find a definition of the word, no information is gleaned. The closest to a definition is found in Subdivision (A):

> "*Definitions:* 'Nudist camp or colony' shall mean: any place where three or more persons, not all members of the same family, congregate, assemble or associate for the purpose of exposing their bodies in the nude in the presence of others or of each other."

This "definition" helps not at all, for what is meant by "nude"? Is a person who has on a pair of shoes and socks nude? Certainly his whole body is not exposed "in the nude." Does the ordinance condemn exposing one's toes to other persons? Or does the ordinance condemn exposing one's sexual organs to others? Nowhere in the ordinance can the answers to these questions be found. If the ordinance is intended to prevent the exposing of the sexual organs, it could very well have said so and so inform the citizenry ahead of time as to what is prohibited.

The ordinance not having the standard of certainty required, conviction under it violates due process.

C. The Ordinance Is Arbitrary and Unreasonable Because It Outlaws Ordinary Family Relationships and Conduct.

The Appellate Department of the Superior Court has ruled that Subdivision (H) of Section 47.50 is entirely severable from the other subdivisions of the ordinance [Tr. 103; R. .....]. Accordingly a reading of Subdivision (H) leads to the conclusion that a husband who provides a household for his wife and 2-month-old child is guilty of violating the ordinance if the husband and wife be unclothed in the presence of each other and in the presence of their naked child. Clearly such restriction on personal habits exceeds the ends to which society can go to protect itself.

And in matters concerning the exercise of freedom of expression this court will judge the constitutionality of a statute on its face in the light of the abuses that may arise from it. (*Thornhill v. Alabama*, 310 U. S. 88, 97.)

D. There Is No Reasonable Basis for Prohibiting Three or More Persons From Practicing Nudism in the Presence of Each Other While at the Same Time Permitting Two Persons to Practice It in Each Other's Presence.

Under the ordinance, had petitioners operated the exact same type of an establishment but only permitted two persons at a time of opposite sexes to view each other in the nude, they would not have committed a crime. If the practice of Nudism has the deleterious effect on society claimed, it would have the same effect whether many persons are in the nude in each other's presence or whether but two are. In fact, it is more likely that when but two are thus allowed in each other's presence immoral or anti-social acts will take place than when many persons are involved.

Conclusion.

It is therefore respectfully requested that the Petition for Writ of Certiorari to the Appellate Department of the Superior Court of the State of California, in and for the County of Los Angeles be granted and that the judgment below be reversed.

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APPENDIX A.

"Sec. 47.50. NUDIST CAMPS AND COLONIES.*

(A) *Definitions.*

1. 'Nudist Camp or Colony' shall mean: any place where three or more persons, not all members of the same family, congregate, assemble or associate for the purpose of exposing their bodies in the nude in the presence of others or of each other.

(B) It shall be unlawful for any person to operate, manage or conduct any nudist camp or colony without a permit therefor from the Board of Police Commissioners. No permit shall be issued for any such camp or colony unless persons of opposite sexes there congregating or assembling or otherwise participating in the activities thereof are so effectively segregated by adequate structural barriers that persons of one sex can neither commingle with nor view persons of the opposite sex in the nude. Any permit issued in violation hereof shall be void.

(C) Each application for a permit hereunder shall be made upon a form prepared by the Board setting forth the proposed location and such other information as the Board may require; it must be signed by the person to be in responsible charge or management of the premises, and, if the applicant be a corporation, partnership or association, by each of the responsible officers thereof.

The Board may thereupon make such investigation as it deems necessary, and if it shall determine that adequate provision has not been made for the segregation of the sexes, or that the applicant or his associates are not fit and proper persons to conduct such a camp or colony, or that the proposed location is not suitable or appropriate or that the granting of a permit would not comport with public welfare or morals, then the application must be denied.

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*Defendant's Exhibit 3.

(D) Any permit issued hereunder may be suspended or revoked by the Board upon any ground hereinabove mentioned as ground for denial thereof, or in any of the following cases:

1. If the complete segregation of the sexes has not been continuously and effectively maintained;
2. If indecent, immoral or illegal acts or practices have been committed, with or without the consent of the permittee;
3. If such camp or colony has been conducted in an otherwise illegal manner.

(E) Each application for a permit shall be accompanied by a fee in the sum of $150.00. Each permit shall expire upon the first day of October next after its issuance, unless sooner revoked or suspended. Each application for a renewal thereof shall be accompanied by a fee of $50.00. Upon any application for a renewal, the power of the Board to grant or deny shall be the same as in the case of an original application.

(F) Each permit shall be effective only at the location named thereon. Such location may be changed only by the Board upon application accompanied by a special fee therefor in the amount of $25.00.

(G) It shall be unlawful for any permittee or any other person for a fee or charge to permit or offer to permit the public or any spectator to view the participants or any of them in any nudist camp or colony.

(H) It shall be unlawful for any person to operate, manage, or conduct any camp, colony, or other place of resort, wherein three or more persons not all of the same sex are permitted or allowed to commingle in the nude; or wherein persons are permitted or allowed to view persons of the opposite sex in the nude."

APPENDIX B.

"FRATERNITY ELYSIA

"REGISTRATION FORM*

'Whereas, the pressure and speed of modern life is very great, and the results of this pressure are seen in the great number of breakdowns, nervous, mental and physical, whereas, marked curiosity and distorted attitudes toward sex and the human body constitute a large factor in those breakdowns, and whereas, it has been conclusively proven that there is an inherent reaction against the restraining influence of clothes—and further, that a periodic release seems best to be obtained in an environment in which people may dispense with clothing and that such a practice is beneficial therapeutically and better fits the individual to carry on as an efficient, well adjusted member of society—be it resolved that we, holding these beliefs and findings in common, band ourselves together as the FRATERNITY ELYSIA, for the interchange of social and cultural values and the permanent establishment of some retreat, wherein we may be free from the prying eyes and prejudices of the public at large and may enjoy the health giving sun and air freely and without restriction.'

"(Preamble, Constitution and By-Laws, Fraternity Elysia)

"I, Bond, Robert & Anna, the undersigned, are fully aware of the principles and practices of the Fraternity Elysia, and believe them to be wholesome and beneficial, mentally, morally, and physically, and so, herewith, make application for admittance to the grounds and precincts frequented by its members. In the event, such permission

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*People's Exhibit A.

is accorded me and I avail myself of it, I do herewith pledge myself not to jeopardize, through any act, acts or speech of mine, the position and security of any member, and/or members of the group there present or of any of the members of the Fraternity either while on the grounds or in any other place, and I further pledge myself to such conduct as shall not be offensive to any of the members of the Fraternity.

"Signed this 31st day of Aug. 1946. Age..... Married X Divorced..... Single..... Children, Name—Age No

"Signature X Bob and Anna Bond Address 7149 No. Bedford, L. A.

"Occupation Salesman Nationality Am Education Grammar

"Note: In cases where one member of a couple wishes to visit alone, express permission in writing must be given by husband or wife. Both signatures on this form will be sufficient.

"This will not be considered as an application for membership in the Fraternity until the signer has visited its resort and the desire for affiliation is mutual. There is no obligation on the part of the Fraternity to confer nor on the part of the signer to accept membership.

"IMPORTANT: Cameras are not to be exposed without the express permission of the director, and all cameras are to be unloaded before leaving the premises. All negatives are to remain in the possession of the Fraternity. No photographs may be taken excepting under these conditions."